

REMARKS

Claims 1-15, all the claims pending in the application, stand rejected upon informalities, stand rejected as not being directed to statutory subject matter, and stand rejected on prior art grounds. Claims 1-15 are amended herein. The Applicant respectfully traverses these rejections based on the following discussion.

I. The Objections to the Specification

The abstract is objected to because of informalities. Accordingly, the Applicant has amended the abstract to place it in compliance with 37 CFR §1.72. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this objection.

II. The 35 U.S.C. §112, First Paragraph, Rejection

Claims 1-15 stand rejected under 35 U.S.C. §112, first paragraph. These rejections are traversed as explained below. The amended claims when read with respect to the specification and drawings clearly provides proper enablement for one of ordinary skill in the art. Moreover, the specification is replete with specific examples of how one would implement the claimed invention, and for example, provides computer pseudocode to allow one of ordinary skill in the art to practice the invention without undue experimentation (see pages 5-6 and 13-18 of the specification). Additionally, real-world applications for using the claimed invention are provided in the specification (see pages 9-19 of the specification). Therefore, one of ordinary skill in the art, who is likely to be a computer programmer and/or engineer familiar with programming techniques would very easily be able to practice the claimed invention without

undue experimentation. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

III. The 35 U.S.C. §112, Second Paragraph, Rejection

Claims 1-15 stand rejected under 35 U.S.C. §112, second paragraph. These rejections are traversed as explained below. The amended claims when read with respect to the specification and drawings clearly provides proper enablement for one of ordinary skill in the art. Moreover, the specification is replete with specific examples of how one would implement the claimed invention, and for example, provides computer pseudocode to allow one of ordinary skill in the art to practice the invention without undue experimentation (see pages 5-6 and 13-18 of the specification). Additionally, real-world applications for using the claimed invention are provided in the specification (see pages 9-19 of the specification). Therefore, one of ordinary skill in the art, who is likely to be a computer programmer and/or engineer familiar with programming techniques would very easily be able to practice the claimed invention without undue experimentation. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

IV. The 35 U.S.C. §101 Rejection

Claims 1-15 stand rejected under 35 U.S.C. §101, because, according to the Office Action, the claims are directed to non-statutory subject matter. These rejections are traversed as explained below. In response, the Applicant has amended claim 1-15 to provide more than merely an “abstract idea” and provides a useful and practical application for which the invention

is directed to. Additionally, MPEP §2106 states that:

Office personnel have the burden to establish a *prima facie* case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. 101. Compare *Musgrave*, 431 F.2d at 893, 167 USPQ at 289; *In re Foster*, 438 F.2d 1011, 1013, 169 USPQ 99, 101 (CCPA 1971). Further when such a rejection is made, Office personnel must expressly state how the language of the claims has been interpreted to support the rejection.

Here, the Office Action fails to establish a *prima facie* case that the claimed invention as a whole does not produce a useful result. Clearly, the Applicants' claimed invention is directed to "presenting the evaluated computer programming language declarative statements to a user as a search result" that allows a user to better isolate relevant documents relating to his/her query search. Such a practical application of the claimed invention is clearly provided in the Applicants' specification as originally filed, and for anyone who has ever conducted a search on in a database related to a given query, the claimed invention indeed offers a useful and tangible result to allow for a better and more efficient search process. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

V. The Prior Art Rejections

Claims 1-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McCollum et al. (U.S. Publication No. 2005/0091640 A1), hereinafter referred to as "McCollum" in view of Nikander, et al. (U.S. Patent No. 6,253,321 B1), hereinafter referred to as "Nikander". The Office Action initially rejects the Applicant's invention based on U.S. Patent

Nos. 6,493,711 and 6,728,726. However, the Examiner clarified that this recitation of the rejection given on page 6, paragraph 11 of the Office Action is erroneous and that the actual rejection is based on McCollum and Nikander. Applicants respectfully traverse these rejections based on the following discussion.

However, the claimed invention, as provided in amended independent claims 1, 8, and 9 contain features, which are patentably distinguishable from the prior art references of record. Moreover, the Applicants note that all claims are properly supported in the specification and accompanying drawings.

That notwithstanding, submitted herewith is a Rule 131 Declaration swearing behind the McCollum reference. The Rule 131 Declaration effectively swears behind the McCollum reference based on the evidence presented in the Rule 131 Declaration and because the earliest priority date of McCollum is October 24, 2003. The accompanying Rule 131 Declaration makes clear that the Applicant's claimed invention was conceived and reduced to practice at least prior to October 24, 2003. Thus, the Rule 131 Declaration effectively swears behind McCollum. Therefore, the accompanying Rule 131 Declaration removes the McCollum reference as prior art against the Applicant's claimed invention.

VI. Entry of Amendment and Rule 131 Declaration Required

MPEP § 715.09 provides that a Rule 131 Declaration is considered timely submitted if it is submitted prior to a final rejection. Therefore, the attached Rule 131 Declaration swearing behind the McCollum references is seasonably presented.

VII. Formal Matters and Conclusion

With respect to the objections and rejections to the claims, the claims have been amended, above, to overcome these objections and rejections. With respect to the objection to the abstract, the abstract has been amended, above, to overcome this objection. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections to the claims.

In view of the foregoing, Applicants submit that claims 1-15, all the claims presently pending in the application, are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary. Please charge any deficiencies and credit any overpayments to Attorney's Deposit Account Number 09-0441.

Respectfully submitted,

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